

February 23, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10756
Conference Calendar

JAMES EUGENE TAYLOR,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:03-CV-2307-P

Before BARKSDALE, GARZA, and STEWART, Circuit Judges.

PER CURIAM:*

James Eugene Taylor, federal prisoner # 31419-077, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition challenging his 1998 convictions on multiple money laundering and fraud counts that resulted in concurrent sentences totaling 121 months of imprisonment. Taylor argues that he is entitled to a downward departure based on the alleged improper assessment of criminal history points for a DWI conviction. In support of his

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

argument, Taylor cites to Dretke v. Haley, 124 S. Ct. 1847, 1853 (2004).

Taylor has not met his burden of showing that he meets the requirements for filing a 28 U.S.C. § 2241 petition under the "savings clause" provisions of 28 U.S.C. § 2255. He has neither pointed to a retroactively applicable Supreme Court decision which establishes that he may have been imprisoned for conduct that was not prohibited by law nor shown that his claims were foreclosed by circuit law at the time of his conviction, appeal, or first 28 U.S.C. § 2255 motion. See Reyes-Requena v. United States, 243 F.3d 893, 903-04 (5th Cir. 2001).

AFFIRMED.